IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

&
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 108 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 16/12/2004 in WP NO: 22841 OF 2004 on the file of the High Court.)

Between:

Nabmuri Subba Rao S/o Koteswara Rao,Hindu, aged about 45 years, Occupation: Senior Mechanic in Electronics and communications Engineering Department, Bapatla Engineering College, Bapatla, Guntur District, resident of D.No.4-9-83, 4th Line, Patel Nagar, Bapatla, Guntur District.

APPELLANT

AND

1 Bapatla Engineering College, Bapatla, Guntur District, rep by President.
2 The Governmet of Andhra Padesh, rep by Director of Technical Education , BRKR Buildings, Tank Bund Hyderabad

RESPONDENTS

Counsel for the Appellant :MR.S.R.SANKU

Counsel for the Respondents.: GP FOR HIGHER EDUCATION.

The Court made the following:

JUDGMENT: (Per the Honourable Smt. Justice T.Meenakumari)

This writ appeal is filed by the writ petitioner-appellant herein aggrieved by the order in W.P. No: 22841 of 2004, under which the learned single Judge dismissed the said writ petition.

The appellant herein is the writ petitioner. He filed the writ petition seeking to declare the action of the 1st respondent in not permitting the petitioner to engage a lawyer in the Departmental enquiry and also the action of the 1st respondent in not constituting the enquiry committee with members of the college as illegal and to direct the 1st respondent to permit the petitioner to engage a lawyer to conduct his case. The learned single Judge having observed that the proceedings dated 10.10.2003 cannot be said to be a binding precedent on the management to provide assistance of a lawyer and that no rule or provision or regulation framed by the 2nd respondent is brought to the notice of this Court that in all cases of disciplinary enquiries, the assistance of a lawyer should be given to the delinquent, , dismissed the writ petition. Having aggrieved by the same, the present writ appeal is preferred by the Writ Petitioner-appellant herein.

Heard the learned counsel on either side.

It is contended by the learned counsel appearing on behalf of the writ petitioner that the services of the lawyer are very essential in the nature of this particular case and in view of the attitude of the Management. It is further contended that the petitioner being the Trade Union Leader is insisting the Management to affect the revised pay scales, as a result of which he has been penalized by the Management firstly by way of transfer and secondly by suspending him and in these circumstances, the assistance of a lawyer is essential in the enquiry.

The 1st respondent is a Private Engineering College. No material has been placed before this Court that the 1st respondent-College is receiving any financial aid from the Government so as to come Article 12 of the Constitution of India. In this view of the matter and after hearing the arguments of the learned counsel for the writ petitioner, We are of the opinion that this writ petition itself is not maintainable against the 1st respondent, which is a private Engineering College.

Even assuming that this writ petition itself is maintainable, as rightly observed

by the learned single Judge, no rule or regulation or provision framed by the 2nd respondent is brought to the notice of this Court that in all cases of disciplinary enquiries, the assistance of a lawyer should be given to the delinquent.

In the absence of any such material placed before this Court, We do not find any illegality or irregularity in the passed by the learned single Judge, and the same does not warrant any interference by this Court. Accordingly, this writ appeal is liable to be dismissed.

In the result, the Writ Appeal is dismissed. No costs.

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Justice T.Meena Kumari

Date : 01st February, 2005

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Justice S.Ananda Reddy

Dvs/Gurc.

Copies to:

1 The President, Bapatla Engineering College, Bapatla, Guntur District,
2 The Director of Technical Education , Governmet of Andhra Padesh, BRKR Buildings, Tank Bund, Hyderabad.

3. Two CCs to the GP for Higher Education, High Court Buildings, Hyderabad.(OUT)

4. Two CD copies.

THE HONOURABLE SMT. JUSTICE T.MEENA KUMARI

&

THE HONOURABLE SRI JUSTICE S.ANANDA REDDY

W.A.No.108 of 2005

(Judgment delivered by

the Honourable Smt. Justice T.Meena Kumari)

1st February, 2005